

§ 104.5

28 CFR Ch. I (7–1–05 Edition)

§ 104.5 Foreign claims.

In the case of claims brought by or on behalf of foreign citizens, the Special Master may alter the requirements for documentation set forth herein to the extent such materials are unavailable to such foreign claimants.

§ 104.6 Amendments to this part.

Claimants are entitled to have their claims processed in accordance with the provisions of this Part that were in effect at the time that their claims were submitted under §104.21(d). All claims will be processed in accordance with the current provisions of this Part, unless the claimant has notified the Special Master that he or she has elected to have the claim resolved under the regulations that were in effect at the time that the claim was submitted under §104.21(d).

[67 FR 11245, Mar. 13, 2002]

Subpart B—Filing for Compensation; Application for Advance Benefits

§ 104.21 Filing for compensation.

(a) *Compensation form; “filing.”* Except for applications for Advance Benefits pursuant to §104.22, no claim may be considered until the claimant has submitted both an “Eligibility Form” and either a “Personal Injury Compensation Form” or a “Death Compensation Form.” A claim shall be deemed “filed” for purposes of section 405(b)(3) of the Act (providing that the Special Master shall issue a determination not later than 120 days after the date on which a claim is filed), and for any time periods in this part, when a Claims Evaluator determines that both the Eligibility Form and either a Personal Injury Compensation Form or a Death Compensation Form are substantially complete. *Provided*, however, that if a claimant files an Eligibility Form requesting Advance Benefits pursuant to §104.22 of this part without filing either a “Personal Injury Compensation Form” or a “Death Compensation Form,” the claim shall be deemed “filed” when the Claims Evaluator determines that the Eligibility Form is substantially complete, but the time period for determination and

any time periods in this part shall be stayed or tolled as described in §104.22(g) of this part.

(b) *Eligibility Form.* The Special Master shall develop an Eligibility Form that will require the claimant to provide information necessary for determining the claimant’s eligibility to recover from the Fund.

(1) The Eligibility Form may require that the claimant certify that he or she has dismissed any pending lawsuit seeking damages as a result of the terrorist-related airplane crashes of September 11, 2001 (except for actions seeking collateral source benefits) within 90 days of the effective date of this part pursuant to section 405(c)(3)(B)(ii) of the Act and that there is no pending lawsuit brought by a dependent, spouse, or beneficiary of the victim.

(2) The Special Master may require as part of the notice requirement pursuant to §104.4(b) that the claimant provide copies of a designated portion of the Eligibility Form to the immediate family of the decedent (including, but not limited to, the spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent’s will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent.

(3) The Eligibility Form may require claimants to provide the following proof:

(i) Proof of death: Death certificate or similar official documentation;

(ii) Proof of presence at site: Documentation sufficient to establish presence at one of the crash sites, which may include, without limitation, a death certificate, records of employment, contemporaneous medical records, contemporaneous records of federal, state, city or local government, an affidavit or declaration of the decedent’s or injured claimant’s employer, or other sworn statement (or unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the victim;